

AMENDED IN SENATE APRIL 13, 1998

SENATE BILL

No. 1951

Introduced by Senator Brulte

(Principal coauthor: Assembly Member Cedillo)

(Coauthor: Assembly Member Villaraigosa)

February 19, 1998

An act to add Section 1395.5 to the Health and Safety Code, and to add Section 10127.4 to the Insurance Code, relating to health coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1951, as amended, Brulte. Health coverage: providers: advertising.

Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Under existing law, willful violation of any of these provisions is a crime. Existing law also provides for the regulation of policies of disability insurance administered by the Insurance Commissioner.

This bill would make it unlawful to prohibit any health care provider from advertising his or her participation in a particular health plan, medical group, independent practice association (IPA), preferred provider organization (PPO), or managed care organization, ~~or his or her participation under a particular disability insurance policy covering hospital, surgical, or medical expenses,~~ under specified circumstances. Since the willful violation of the provisions relating to health care service plans is a crime, this bill would impose a state-mandated local program. The bill would also state that

its provisions are not intended to prohibit contract provisions that establish reasonable guidelines for the advertisement of a provider's participation, as specified.

This bill would also make it unlawful, with respect to specified disability insurance contracts, for a health plan, medical group, independent practice association (IPA), preferred provider organization (PPO), or managed care organization to prohibit any health care provider from advertising, except that any of these entities may prohibit a provider from using the name, logo, or trademark of any health care entity with whom the provider does not have a direct contractual relationship.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares as
2 follows:

3 (a) The State of California recognizes that one of the
4 benefits of managed care is the availability of a broad
5 range of services to health plan enrollees.

6 (b) If patients are unaware of services covered by
7 their health plans, they may not use these services, even
8 when to do so would be beneficial to their health.

9 (c) The provider booklets issued by health plans,
10 containing the names of participating providers, are
11 frequently outdated.

12 (d) Enrollees' awareness of covered services and
13 participating providers will be improved if participating
14 health care providers are permitted to advertise their
15 services.

16 (e) Commercial speech is protected by the First
17 Amendment to the United States Constitution, and



1 should not be restricted except when necessary to
2 prevent fraud or dishonesty.

3 SEC. 2. Section 1395.5 is added to the Health and
4 Safety Code, to read:

5 1395.5. (a) Notwithstanding the provisions of any
6 contract that is issued, amended, renewed, or delivered
7 on or after January 1, 1999, it shall be unlawful to prohibit
8 any health care provider from advertising his or her
9 participation in a particular health plan, medical group,
10 independent practice association (IPA), preferred
11 provider organization (PPO), or managed care
12 organization, as long as the advertising does not
13 constitute a violation of any other provision of law.

14 (b) Nothing in this section is intended to prohibit
15 contract provisions that establish reasonable guidelines
16 for the advertisement of a provider's participation,
17 including, but not limited to, a requirement that each
18 advertisement discloses the effective dates of the
19 provider's contract with the health plan, medical group,
20 IPA, PPO, or managed care organization.

21 SEC. 3. Section 10127.4 is added to the Insurance
22 Code, to read:

23 10127.4. (a) Notwithstanding the provisions of any
24 contract that is issued, amended, renewed, or delivered
25 on or after January 1, 1999, it shall be unlawful ~~to prohibit~~
26 ~~any health care provider from advertising his or her~~
27 ~~participation under a particular disability insurance~~
28 ~~policy covering hospital, surgical, or medical expenses, as~~
29 ~~long as the advertising does not constitute a violation of~~
30 ~~any other provision of law.~~

31 ~~(b) Nothing in this section is intended to prohibit~~
32 ~~contract provisions that establish reasonable guidelines~~
33 ~~for the advertisement of a provider's participation,~~
34 ~~including, but not limited to, a requirement that each~~
35 ~~advertisement discloses the effective dates of the~~
36 ~~provider's contract with the disability insurer. for a health~~
37 ~~plan, medical group, independent practice association~~
38 ~~(IPA), preferred provider organization (PPO), or~~
39 ~~managed care organization to prohibit any health care~~
40 ~~provider from advertising, except that a health plan,~~

1 *medical group, independent practice association (IPA),*
2 *preferred provider organization (PPO), or managed care*
3 *organization may prohibit a provider from using the*
4 *name, logo, or trademark of any health care entity with*
5 *whom the provider does not have a direct contractual*
6 *relationship.*

7 SEC. 4. No reimbursement is required by this act
8 pursuant to Section 6 of Article XIII B of the California
9 Constitution because the only costs that may be incurred
10 by a local agency or school district will be incurred
11 because this act creates a new crime or infraction,
12 eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section
14 17556 of the Government Code, or changes the definition
15 of a crime within the meaning of Section 6 of Article
16 XIII B of the California Constitution.

17 Notwithstanding Section 17580 of the Government
18 Code, unless otherwise specified, the provisions of this act
19 shall become operative on the same date that the act
20 takes effect pursuant to the California Constitution.

